

CLERK'S MINUTES

BEFORE DISTRICT JUDGE JAMES O. BROWNING (IN LAS CRUCES)

CASE No.:	No. CR 15-4268 JB	DATES:	January 29-February 2, 2018
CASE CAPTION:	<i>USA v. DeLeon, et al.</i>		
CRD:	J. Standridge	COURT REPORTER:	J. Bean
MONDAY, JANUARY 29, 2018			
COURT IN SESSION:	8:30 a.m. 9:38 a.m. 11:52 a.m. 2:33 p.m. 4:38 p.m.	COURT IN RECESS:	9:25 a.m. = :55 11:39 a.m. = 2:01 1:34 p.m. = 1:42 4:21 p.m. = 1:48 5:41 p.m. = 1:03 TOTAL = 7:29
TUESDAY, JANUARY 30, 2018			
COURT IN SESSION:	8:44 a.m. 10:41 a.m. 1:17 p.m. 3:26 p.m. 4:49 p.m.	COURT IN RECESS:	10:19 a.m. = 1:35 12:18 p.m. = 1:37 3:06 p.m. = 1:49 4:31 p.m. = 1:05 5:45 p.m. = 0:56 TOTAL = 7:02
WEDNESDAY, JANUARY 31, 2018			
COURT IN SESSION:	8:23 A.M. 10:43 A.M. 1:12 P.M. 3:05 P.M. 4:47 P.M.	COURT IN RECESS:	10:26 A.M. = 2:03 12:17 P.M. = 1:34 2:47 P.M. = 1:35 4:31 P.M. = 1:26 5:33 P.M. = 0:46 TOTAL = 7:24
THURSDAY, FEBRUARY 01, 2018			
COURT IN SESSION:	8:20 A.M. 10:02 A.M. 11:34 A.M. 2:13 P.M. 4:01 P.M.	COURT IN RECESS:	9:47 A.M. = 1:27 11:21 A.M. = 1:19 1:13 P.M. = 1:39 3:46 P.M. = 1:33 5:33 P.M. = 1:32 TOTAL = 7:30
FRIDAY, FEBRUARY 02, 2018			
COURT IN SESSION:	8:20 A.M. 10:00 A.M. 11:46 A.M. 2:13 P.M. 4:03 P.M.	COURT IN RECESS:	9:47 A.M. = 1:27 11:34 A.M. = 1:34 1:19 P.M. = 1:33 3:46 P.M. = 1:33 5:35 P.M. = 1:32 TOTAL = 7:39

TYPE OF PROCEEDING: Jury Selection/Jury Trial (see below)

COURT'S RULING/DISPOSITION:

1. United States' Sealed Motion to Reconsider the Court's Two Jury Proposal [1712] – **GRANTED**
2. Motion to Continue January 29, 2018 Trial Setting [1707] - **DENIED**
3. Sealed Second Motion to Continue the January 29, 2018 Trial and for an Order Imposing Sanctions Against the Government for Violation of the Court's Order Regarding Discussion With the Press: Request for Hearing [1720] - **DENIED**

ORDER CONSISTENT WITH COURT'S RULING TO BE

PREPARED BY:

ATTORNEYS PRESENT FOR PLAINTIFF(s):

Maria Armijo/Randy Castellano/
Matthew Beck, AUSAs

ATTORNEYS PRESENT FOR DEFENDANT(s):

Richard Jewkes/Amy Jacks (for Deft. Daniel Sanchez)

Marc Lowry/Teresa Duncan (for Deft. Anthony Ray Baca)

William Maynard/Carrie Bhalla (for Deft. Carlos Herrera)

Ryan Villa/Justine Fox-Young (for Deft. Rudy Perez)

COURT IN SESSION:

8:30 a.m.

COURT:

Calls case. Counsel enter appearances. FBI Special Case Agent Brian Acee present. Eda Gordon, Investigator, present with Defendant Perez. Cynthia Gilbert, paralegal, present for all defense teams.

MONDAY, JANUARY 29, 2018

Court: Notes CRD tested shackles yesterday with USM to ensure no noise can be made with them; have ensured this a.m. that the Defendants can easily stand while wearing the shackles. Discusses w/counsel additional jurors to be excused.

UNITED STATES' SEALED MOTION TO RECONSIDER THE COURT'S TWO JURY PROPOSAL
[1712]

Court: Notes for record discussions held over weekend regarding Court's inclination to grant the motion – outlines Govt.'s agreement to treat statements as *Bruton* and adhere to *Bruton* standards as to redactions.

MOTION TO CONTINUE JANUARY 29, 2018 TRIAL SETTING [1707]

Court: Denies motion.

SEALED SECOND MOTION TO CONTINUE THE JANUARY 29, 2018 TRIAL AND FOR AN ORDER IMPOSING SANCTIONS AGAINST THE GOVERNEMENT FOR VIOLATION OF THE COURT'S ORDER REGARDING DISCUSSION WITH THE PRESS: REQUEST FOR HEARING
[1720]

Court: Queries AUSA regarding discussions about speaking to the press.

Mr. Beck: Argues in opposition to motion.

Parties agree not to speak to press during this trial.

Court: Will enforce agreement.

Ms. Jacks: Argues in support of motion. Discusses *James* statements.

9:07 a.m. Court: Do think Defendants position has gotten better over past month as to evidentiary problems the statements have created. Provides disclosure regarding Darren White.

9:14 a.m. Ms. Bhalla: Argues in support of motion – requests 72 hour window to review transcripts prior to being used.

Mr. Beck: Fine – may get some sooner.

Ms. Bhalla: Request Court query venire panel to determine if any have been exposed to media over the past month.

Court: Intend to do so.

Ms. Jacks: Clarifies that the 72 hour window request was to be 72 hours prior to trial.

Court: Not going to get that.

Mr. Beck: Responds – will provide as soon as possible. No redacted statements will be used this week.

Ms. Jacks: Still want timetable imposed.

Court: 72 hours is being imposed as to transcripts, but likely not audio.

Venire panel enters courtroom.

9:58 a.m. Court: Thanks prospective jurors for appearing; introduces staff; explains voir dire process.

10:07 a.m. Voir dire panel sworn.

10:08 a.m. Court: Conducts voir dire.

11:35 a.m. Court: Gives cautionary instructions and excuses prospective jurors for break - – should wait outside courtroom upon return - CRD will meet when ready for panel to return to courtroom..

11:37 A.M. Venire panel exits courtroom.

Court in recess: 11:39 a.m.

Court in session: 11:52 a.m.

Court: Continues conducting voir dire.

Venire panel returns to courtroom.

Court: Conducts further voir dire.

1:29 p.m. Court: Gives cautionary instructions and excuses venire panel until 2:30 p.m.

1:31 p.m. Venire panel exits courtroom.

Court in recess: 1:34 p.m.

Court in session: 2:33 p.m.

2:45 p.m. Court: Continues conducting voir dire.

4:18 p.m. Court: Gives cautionary instructions and excuses venire panel until 1:00 p.m. – should wait outside courtroom upon return - CRD will meet when ready for panel to return to courtroom.

4:19 p.m. Venire panel exits courtroom.

Court in recess: 4:21 p.m.

Court in session: 4:38 p.m.

4:40 p.m. Venire panel returns to courtroom.

5:31 p.m. Court: Informs panel should return tomorrow at 8:30 a.m. and wait outside courtroom for CRD to bring into courtroom; Clerk's Office staff available after excusing just now to assist with hotel accommodations; and, should take personal belongings this evening. Gives cautionary instructions.

5:36 p.m. Ms. Duncan: Received over 1000 pages discovery – requests be provided directly to counsel rather than going through discovery coordinator.

Ms. Armijo: Was disclosed yesterday after 6:00 p.m.

Court: Productions during trial should be provided to counsel and not just through discovery coordinator.

Ms. Armijo: Request release of Grand Jury transcripts for Jenkes purposes

Mr. Lowry: Motion to Strike Briefing.

Court: Universe closed. Gov't would have to justify entry of unreleased information.

5:41 p.m. Ms. Jacks: Jencks deadline was 01/16/2018. Just receiving information today.

Court in recess: 5:41 p.m. (until 8:30 a.m. tomorrow).

TUESDAY, JANUARY 30, 2018

Court in session: 8:44 a.m.

Court: Based on parties request, excuses for cause prospective juror nos.: 1, 10 and 40.

8:46 a.m. Mr. Beck: Addresses the Court regarding for of order regarding Jencks disclosure.

8:47 a.m. Court: Because parties have not reached agreement, returns form of order to Govt.

8:47 a.m. Venire panel enters courtroom. Prospective juror no. 53 not yet present.

Court: Continues conducting voir dire – will proceed w/o no. 53 given conducting individual questioning of prospective jurors.

Ms. Duncan: Discloses additional witnesses to be called (Defendant's Amended Joint Supplemental Witness List).

Court: Conducts additional voir dire re: same.

9:21 a.m. Mr. Beck: Conducts voir dire on behalf of Govt.

9:55 a.m. Prospective juror no. 53 arrives.

9:57 a.m. Ms. Duncan: Conducts voir dire on behalf of Defendant Baca.

10:16 a.m. Court: Excuses venire panel for break.

10:17 am. Venire panel exits courtroom.

Court: Informs DUSM Sergio Hermosillo knows prospective juror no. 2; notes for record prospective juror arrived at 9:55 a.m.

Court in recess: 10:19 a.m.

Court in session: 10:41 a.m.

10:42 a.m. Venire panel enters courtroom.

Ms. Duncan: Continues conducting voir dire on behalf of Defendant Baca.

11:04 a.m. Ms. Bhalla: Conducts voir dire on behalf of Defendant Herrera.

11:49 a.m. Mr. Villa: Conducts voir dire on behalf of Defendant Perez.

12:16 p.m. Court: Will recess for lunch. Informs venire panel that the use of names during trial has been the Court's decision.

12:17 p.m. Venire panel exits courtroom.

Court in recess: 12:18 p.m.

Court in session: 1:17 p.m.

Court discusses content of voir dire with counsel.

1:22 p.m. Venire panel enters courtroom.

1:32 p.m. Mr. Villa: Continues conducting voir dire on behalf of Defendant Perez.

2:00 p.m. Mr. Jewkes: Conducts voir dire on behalf of Defendant Sanchez.'

2:37 p.m. Court: Calls and conducts bench conference.

2:38 p.m. Open court.

Ms. Duncan: Conducts further voir dire on behalf of Defendant Baca.

2:40 p.m. Court: Continues conducting bench conference.

2:42 p.m. Open court.

2:42 p.m. Court: Gives cautionary instructions and excuses venire panel until 4:15 p.m.

2:45 p.m. Venire panel exits courtroom.

2:47 Court: Hears parties' for cause challenges.

Ms. Armijo: Govt. moves to strike for cause prospective jurors nos.:

7 (opposed by Defendant Baca only),
13 (all defense agree),
11 (all defense agree),
14 (all defense oppose),
38 (all defense agree),
42 (all defense agree),
59 (all defense agree),
65 (all defense agrees),
53 (all defense agree),
32 (all defense agree),
33 (all defense agree) and
30 (all defense oppose).

Ms. Duncan: Defense moves to strike for cause prospective jurors nos.:

3 (Govt. opposes),
6 (Govt. opposes),
16 (Govt. opposes),
22 (Govt. opposes),
31 (Govt. opposes),
25 (),
34 (Govt. agrees),
39 (Govt. opposes)
48 (Govt. opposes)
51 (Govt. opposes)
58 (Govt. opposes)

Ms. Jacks: Defendant Sanchez moves to strike for cause prospective jurors nos.:

Ms. Bhalla: Defendant Herrera moves to strike for cause prospective jurors nos.:

Court: Strikes for cause prospective jurors nos.: **13, 11, 59, 65, 53, 33, 22, 39, 48, 3, 16, 32, 38, 42** and 34; does not strike for cause prospective jurors nos.: **7, 14, 30, 6, 31, 51**.

Court in recess: 3:06 p.m.

Court in session: 3:26 p.m.

Court: Resumes hearing parties for cause challenges as listed above.

Court in recess: 4:31 p.m.

Court in session: 4:49 p.m.

Ms. Jacks: Requests 5 additional peremptory challenges.

Court: Denies.

4:49 p.m. Court hears parties' peremptory challenges as reflected on challenge sheet.

5:13 p.m. Mr. Castellano: Wishes to not sworn until tomorrow.

Ms. Duncan: Defense want sworn and preliminary instruction given.

5:18 p.m. Venire panel enters courtroom.

Court: Thanks venire panel, again, for service today.

CRD announces prospective jurors selected to serve on jury.

5:25 p.m. Court: Excuses prospective jurors not selected – thanks for service.

Jury sworn.

Court: Gives preliminary instructions. Gives cautionary instructions. Excuses jury until 8:30 a.m. tomorrow.

5:40 p.m. Jury exits courtroom.

Mr. Castellano: Informs defense has requested PSRs as part of Jencks disclosure – will review, but would like Court to conduct in camera review prior to production.

Court: Govt. should look at thoroughly first and then will look at if must do so. Discusses length of opening statements with counsel. Will work with USMS re: access to building – counsel will be permitted to enter at 7:30 a.m.; jurors not until 8:00; and, counsel need to work to get out of the building as soon as practically possible in the evenings.

Court in recess: 5:45 p.m.

WEDNESDAY, JANUARY 31, 2018

8:23 a.m. Court in session

Court: Admits Clerk's Exhibit D. Rule is envoked.

8:30 a.m. Jury seated

8:32 a.m. Ms. Armijo: Opening statements.

8:57 a.m. Ms. Jacks: Opening statements.

Court: Calls and conducts bench conference.

9:00 a.m. Open Court.

Ms. Jacks: Continues with opening statements.

9:21 a.m. Ms. Bhalla: Opening statements.

9:29 a.m. Ms. Fox-Young: Opening statements.

9:46 a.m. Mr. Lowry: Opening statements.

10:26 a.m. Court in recess

10:43 a.m. Court in session

10:43 a.m. Ms. Jacks: Lodges an objection, and moves for a mistrial.

Court: Will give limiting instructions to jury regarding Govt's opening statement.

10:45 a.m. Mr. Beck: Responds to objections.

Court: Denies motion for mistrial and motion to severe. Instructs parties to submit a letter regarding objections.

10:52 a.m. Mr. Castellano: Calls witness Agent Bryan Acee

Clerk: Swears in Agent Acee

Mr. Castellano: Direct examination of Agent Bryan Acee

Mr. Jacks: Objection to testimony by Agent Acee as expert witness

Court: Over-ruled. Agent is giving background information.

11:27 Mr. Lowry: Objection, hearsay

Court: Sustained

Mr. Lowry: Objection, leading

Court: Over-ruled

Mr. Lowry: Objection, hearsay

Court: Lay a foundation

Mr. Lowry: Objection, hearsay

Court: Move on

11:38 a.m. Court: Calls and conducts bench conference.

11:39 a.m. Open Court.

Mr. Castellano: Moves for admission of Exhibits #548 - #560

Defense: No objection

Court: Admits Exhibits #548 - #560

Mr. Castellano: Moves for admission of Exhibits #495 - #502 & #504 - #507

Defense: No objection

Court: Admits Exhibits #495 - #502 & #504 - #507

Mr. Castellano: Moves for admission of Exhibits #606 - #618

Defense: No objection

Court: Admits Exhibits #606 - #618

Mr. Castellano: Moves for admission of Exhibits #596 - #605

Defense: No objection

Court: Admits Exhibits #596 - #605

Mr. Castellano: Moves for admission of Exhibits #586 - #595

Defense: No objection

Court: Admits Exhibits #586 - #595

12:17 p.m. Court in recess

1:12 p.m. Court in session

Ms. Fox-Young:

1:16 p.m. Mr. Castellano: Continue direct exam of Agent Acee

Mr. Castellano: Moves for admission of Exhibits #561 - #567

Defense: No objection

Court: Admits Exhibits #561 - #567

Mr. Castellano: Moves for admission of Exhibits #636 - #643

Defense: No objection

Court: Admits Exhibits #636 - #643

Mr. Castellano: Moves for admission of Exhibits #568 - #573

Defense: No objection

Court: Admits Exhibits #568 - #573

1:35 p.m. Mr. Lowry: Objection, hearsay

Court: Lay foundation

Mr. Castellano: Moves for admission of Exhibits #574 - #580

Defense: No objection

Court: Admits Exhibits #574 - #580

Mr. Castellano: Moves for admission of Exhibits #581 - #585

Defense: No objection

Court: Admits Exhibits #581 - #585

Mr. Castellano: Moves for admission of Exhibits #628 - #635

Defense: No objection

Court: Admits Exhibits #628 - #635

1:53 Ms. Jacks: Objection, hearsay

Court: Calls and conducts bench conference.

1:57 p.m. Open Court.

Mr. Castellano: Moves for admission of Exhibits #539 - #547

Defense: No objection

Court: Admits Exhibits #539 - #547

2:05 p.m. Mr. Villa: Objection, asking for results

Court: Over-ruled

Mr. Castellano: Moves for admission of Exhibits #528 - #538

Defense: No objection

Court: Admits Exhibits #528 - #538

2:21 p.m. Mr. Lowry: Objection, hearsay

Court: Over-ruled

2:22 p.m. Ms. Jacks: Objection, testimonial and hearsay

Court: Over-ruled

2:23 p.m. Mr. Lowry: Objection

Court: Jury disregard statement. Statement is to be stricken from the record.

2:32 p.m. Mr. Villa: Objection, hearsay

Court: Lay a foundation

Mr. Villa: Objection, hearsay

Court: Lay foudation

2:34 p.m. Mr. Lowry: Objection, relevancy

Court: Over-ruled

2:47 p.m. Court in recess

3:05 p.m. Court in session

3:06 p.m. Mr. Castellano: Continue direct exam of Agent Acee. Pass the witness.

3:07 p.m. Mr. Lowery: Cross exam of Agent Acee on behalf of Deft Baca.

3:20 p.m. Mr. Castellano: Objection, hearsay.

Court: Do not elicit hearsay.

3:24 p.m. Mr. Castellano: Objection, hearsay.

Court: Answer yes or no, only.

3:31 p.m. Mr. Lowry: Pass the witness

Mr. Maynard: Cross exam of Agent Acee on behalf of Deft Herrera.

3:35 p.m. Mr. Castellano: Objection, hearsay

Court: Lay a foundation

3:41 p.m. Mr. Maynard: Pass the witness

Mr. Villa: Cross exam of Agent Acee on behalf of Deft Perez.

3:58 p.m. Mr. Castellano: Objection, hearsay

Court: May answer yes or no

4:00 p.m. Mr. Castellano: Objection, calls for speculation

Court: Instructs jury to not consider

4:13 p.m. Mr. Castellano: Objection, was not Agent Acee, was a different agent.

Court: Witness may answer if he knows the answer.

4:20 p.m. Mr. Castellano: Stipulates that Mr. Cordova used drugs less than 1 month ago.

4:31 p.m. Court in recess

4:47 p.m. Court in session

4:47 p.m. Mr. Villa: Continue cross exam of Agent Acee

4:57 p.m. Mr. Villa: Pass the witness

Ms. Jacks: Cross exam of Agent Acee on behalf of Deft Sanchez.

5:33 p.m. Court in recess. Return on Thursday, 02/01/2018 @ 8:00 a.m.

THURSDAY, FEBRUARY 1, 2018

8:20 a.m. Court in session

Court: Addresses the issue with Real Time. Note from juror. Clerk will confirm intention of note. Note admitted as Clerk's Exhibit E.

8:22 a.m. Ms. Armijo: Argues in support of motion to disqualify Mr. Lowry.

8:24 a.m. Ms. Jacks: Addresses issue of testimony by Agent Acee regarding pending trials for 2 of the defts.

Mr. Castellano: Addresses agreement by parties to not discuss personal issues of witnesses.

8:30 a.m. Jury seated

Ms. Jacks: Continues cross exam of Agent Acee. Interrupts testimony of Agent Acee.

Court: Not going to override witness's testimony

8:40 a.m. Ms. Jacks: Passes the witness

Mr. Castellano: Re-direct exam of Agent Acee.

Mr. Ryan: Objection, hearsay

Court: Witness may answer as to what he did.

8:47 a.m. Mr. Villa: Objection, hearsay.

Mr. Castellano: Will rephrase the question.

8:52 a.m. Mr. Villa: Objection, speculation.

Court: Over-ruled. Witness may testify the purpose.

9:03 a.m. Mr. Villa: Objection, hearsay.

Court: Asks how witness would know this information.

9:09 a.m. Ms. Jacks: Objection, asking witness to make a determination that jurors should make.

Mr. Castellano: Will rephrase the question.

9:11 a.m. Ms. Jacks: Objection, confusing question.

Court: With defts present, question may be asked how many the Govt has accused of the murder of Molina.

Mr. Castellano: Passes the witness

9:13 a.m. Court: Calls and conducts bench conference.

Mr. Lowry: Re-cross examination of Agent Acee on behalf of deft Baca

9:31 a.m. Mr. Lowry: Moves to mark Kastigar letter as Exhibit. EJ

Mr. Maynard: Re-cross of Agent Acee.

9:38 a.m. Mr. Maynard: Passes the witness

Mr. Villa: Re-cross of Agent Acee on

9:41 a.m. Mr. Villa: Passes the witness

Ms. Jacks: Re-cross of Agent Acee.

9:47 a.m. Court in recess

10:02 a.m. Court back in session

Ms. Bhalla: Addresses the issue of Giglio material

Court: Instructs parties to prepare a motion.

10:06 a.m. Jury seated

Ms. Jacks: Continues re-cross of Agent Acee.

10:14 a.m. Ms. Jacks: No further questions

Court: Agent Acee may step down. Agent Acee is subject to recall, may remain in the courtroom.

10:15 a.m. Ms. Armijo: Calls Jerry Roark to the witness stand

Clerk: Swears in Jerry Roark

Ms. Armijo: Direct exam of Jerry Roark

10:29 a.m. Ms. Armijo: Moves to admit Exhibits #13, #163, #162 & #15

Defense: No objection

Court: Admits Exhibits #13, #163, #162 & #15

10:52 a.m. Ms. Armijo: Moves to admit Exhibits #740

Defense: Objection by Ms. Jacks for deft Sanchez, and Ms. Fox-Young for deft Perez. No objection by remaining defts.

Court: Admits Exhibits #740, with limiting instruction-Exhibit #740 may only be used as evidence against Deft Baca.

11:08 a.m. Ms. Armijo: Passes the witness.

Ms. Fox-Young: Cross exam of Mr. Roark

11:10 a.m. Ms. Fox-Young: Moves to admit Exhibit V24

Gov't: No objection

Court: Admits Exhibit V24

11:18 a.m. Ms. Armijo: Objection, hearsay

Court: Over-ruled

11:21 a.m. Court in recess

11:34 a.m. Court in session

Ms. Fox-Young: Continues cross-examination of Mr. Roark on behalf of deft Perez

11:43 a.m. Ms. Armijo: Objection

Ms. Fox-Young: Withdraw the question.

11:47 a.m. Ms. Armijo: Objection, foundation

Court: Over-ruled

11:51 a.m. Ms. Fox-Young: Passes the witness

Ms. Duncan: Cross examination of Mr. Roark on behalf of deft Baca

11:55 a.m. Ms. Jacks: Requests limiting instructions regarding statements related to deft Baca

Court: Limiting instruction – Statements related to deft Baca can only be used in consideration of deft Baca

11:57 a.m. Ms. Duncan: Moves to admit Exhibits EF, EG, EH & EI

Govt: No objection

Court: Admits Exhibits EF, EG, EH & EI, with limiting instructions

12:02 p.m. Ms. Duncan: Passes the witness.

Ms. Bhalla: No questions of Mr. Roark on behalf of deft Herrera.

Ms. Jacks: Cross examination of Mr. Roark on behalf of deft Sanchez.

12:09 p.m. Ms. Jacks: Pass the witness

Ms. Armijo: Re-direct examination of Mr. Roark.

12:13 p.m. Ms. Bhalla: Objection, speculation.

Ms. Jacks: Objections, based on evidence at this time.

Court: Sustained.

Ms. Jacks: Moves to strike answer by witness, as hearsay.

Court: Over-ruled.

12:16 p.m. Ms. Jacks: Objections prior to testimony, as hearsay.

Court: Witness may answer as yes or no.

12:22 p.m. Ms. Armijo: No further questions.

Ms. Jacks: Re-cross examination of Mr. Roark on behalf of deft Sanchez.

Ms. Fox-Young: Moves to have Mr. Roark subject to recall.

12:25 p.m. Ms. Jacks: No further questions.

Ms. Armijo: Re-direct of Mr. Roark.

Court: Mr. Roark may step down, not excused of proceedings, may not remain in the courtroom.

12:27 p.m. Mr. Beck: Calls Greg Marcantel to the witness stand.

Clerk: Swears in Greg Marcantel

Mr. Beck: Direct examination of Mr. Marcantel.

12:36 p.m. Mr. Lowry: Objection, relevance.

Court: Over-ruled.

12:41 p.m. Mr. Lowry: Objection, narrative.

Court: Break testimony into question and answer to allow objections.

12:47 p.m. Mr. Lowry: Objection, non-responsive.

Court: Over-ruled.

12:56 p.m. Ms. Duncan: Objection, speculation. Requests response be stricken from the record.

Court: Sustained. Response is stricken from the record.

Court: Calls and conducts bench conference.

1:01 p.m. Mr. Beck: Passes the witness.

Mr. Lowry: Cross examination of Mr. Marcantel on behalf of deft Baca.

1:03 p.m. Mr. Beck: Objection, outside the scope

Court: Over-ruled.

1:07 p.m. Mr. Beck: Objection, hearsay.

Court: Over-ruled.

1:13 p.m. Court in recess

2:13 p.m. Court in session

Ms. Bhalla: Continues to address Giglio matter. Requests to remove or strike testimony of Billy Cordova.

Mr. Beck: Responds to matters addressed by Ms. Bhalla.

2:16 p.m. Jury is seated.

Mr. Lowry: Continues cross-examination of Mr. Marcantel on behalf of deft Baca. Moves to admit Exhibit EK.

Govt: No objection.

Court: Admits Exhibit EK.

2:31 p.m. Mr. Lowry: Pass the witness.

Mr. Jewkes: Cross examination of Mr. Marcantel on behalf of deft Sanchez.

2:39 p.m. Mr. Jewkes: Pass the witness

Ms. Bhalla: Cross examination of Mr. Marcantel on behalf of deft Herrera.

2:42 p.m. Ms. Bhalla: Passes the witness

Ms. Fox-Young: No questions for Mr. Marcantel on behalf of deft Perez.

Court: Calls and conducts bench conference.

2:45 p.m. Mr. Lowry: Re-cross examination of Mr. Marcantel on behalf of deft Baca. No further questions.

Mr. Beck: No additional questions.

Court: Mr. Marcantel may step down from the witness stand and is dismissed from the proceedings.

Court: Calls and conducts bench conference.

2:59 p.m. Mr. Castellano: Calls Manuel Armijo to the witness stand.

Clerk: Swears in Manuel Armijo.

Mr. Castellano: Direct examination of Mr. Armijo.

3:28 p.m. Ms. Duncan: Objections, calls for hearsay.

Court: Lay some foundation.

3:32 p.m. Ms. Duncan: Objections, leading.

Court: Over-ruled.

3:46 p.m. Court in recess

4:01 p.m. Court in session

Mr. Beck: Handed the Court documents 1715 & 1716.

Court: Instructs Gov't to cover Real Time during bench conferences.

4:06 p.m. Jury seated

Mr. Castellano: Continue direct examination of Mr. Armijo.

4:28 p.m. Mr. Castellano: Passes the witness.

Mr. Villa: Cross examination of Mr. Armijo on behalf of deft Perez.

4:36 p.m. Mr. Villa: Passes the witness.

Mr. Jewkes: Cross examination of Mr. Armijo on behalf of deft Sanchez.

5:00 p.m. Mr. Jewkes: Passes the witness.

Mr. Maynard: Cross examination of Mr. Armijo on behalf of deft Herrera.

5:10 p.m. Mr. Maynard: Passes the witness.

Ms. Duncan: Cross examination of Mr. Armijo on behalf of deft Baca.

5:17 p.m. Mr. Castellano: Objection, asked for purpose of impeachment.

Court: Ask the question, to see what the answer is. Instructs Ms. Duncan to stick to the felonies.

5:22 p.m. Ms. Duncan: Passes the witness.

Mr. Castellano: Re-direct examination of Mr. Armijo.

5:23 p.m. Mr. Castellano: Moves to admit Exhibit #695

No Objections

Court: Admits Exhibit #695

5:29 p.m. Ms. Duncan: Objection

Court: Ask without giving details

5:30 p.m. Mr. Castellano: Pass the witness

5:33 p.m. Jury released until Friday, 02/02/2018 at 8:30 a.m.

FRIDAY, FEBRUARY 2, 2018

8:20 a.m. Court in session.

Mr. Maynard: Informs the Court a Motion in Limine [doc #1733] was filed 02/01/2018.

Mr. Beck: Informs the Court a Response in Opposition [doc #1735] was filed 02/02/2018.

Ms. Jacks: Addresses concerns of the Gov'ts second informant.

Mr. Beck: Responds to concerns raised by Ms. Jacks.

Ms. Fox-Young: Addresses concerns of the 302.

Mr. Beck: Responds to concerns related to the 302.

8:32 a.m. Jury seated

Court: Witness Manuel Armijo returned to the witness box. Reminds witness he is still under oath.

Ms. Duncan: Continues cross examination of Mr. Armijo on behalf of deft Baca.

8:35 a.m. Court: Mr. Armijo may step down from stand. Informs Mr. Armijo he is subject to recall. Mr. Armijo is permitted to leave the building.

Ms. Armijo: Calls Antonio Palomares to testify.

Clerk: Swears in Antonio Palomares.

Ms. Armijo: Direct examination of Sgt. Palomares (New Mexico State Police).

8:55 a.m. Ms. Armijo: Passes the witness.

Mr. Villa: Cross examination of Sgt. Palomares on behalf of deft Perez.

8:59 a.m. Mr. Villa: Moves to admit Defendant Exhibit I1.

Ms. Armijo: Objects to Defendant Exhibit I1. Offers Govt Exhibit 11.

Mr. Villa: No objection.

Court: Admits Govt. Exhibit 11

9:38 a.m. Ms. Armijo: Objection, asked and answered.

Court: Over-ruled.

9:46 a.m. Mr. Villa: Passes the witness.

9:47 a.m. Court in recess

10:00 a.m. Court in session

Ms. Duncan: Addresses the Court re: video and testimony.

Mr. Villa: Addresses the Court re: issuance of subpoena for Jerry Montoya.

Mr. Beck: Responds to issues raised by Mr. Villa.

Court: Copies are to be made with original given to Mr. Villa.

10:04 a.m. Jury seated.

Court: Reminds Sgt. Palomares that he is still under oath.

Mr. Jewkes: Cross examination of Sgt. Palomares on behalf of deft Sanchez.

10:22 a.m. Ms. Armijo: Objection, foundation and hearsay.

Court: Ask if the witness knows before asking leading questions.

10:23 a.m. Mr. Jewkes: Passes the witness.

Ms. Bhalla: Cross examination of Sgt. Palomares on behalf of deft Herrera.

10:25 a.m. Ms. Bhalla: Mark but not admit Jerry Armenta letter as Deft Exhibit EL.

Ms. Bhalla: Passes the witness.

Ms. Duncan: No questions for Sgt. Palomares on behalf of deft Baca.

10:27 a.m. Ms. Armijo: Re-direct examination of Sgt. Palomares.

10:33 a.m. Ms. Jacks: Objection.

Court: Limiting instruction – Statements by Sgt. Palomares can only be used in consideration of deft Perez.

Court: Calls and conducts bench conference.

10:46 a.m. Mr. Villa: Re-cross examination of Sgt. Palomares.

10:46 a.m. Mr. Villa: Passes the witness.

Court: Calls and conducts bench conference.

10:49 a.m. Mr. Beck: Calls Javier Rubio to testify.

Court: Calls and conducts bench conference.

11:00 a.m. Clerk: Swears in Javier Rubio.

Mr. Beck: Direct examination of Mr. Rubio.

11:02 a.m. Mr. Beck: Moves to admit Govt Exhibits #253A & #253B.

Defense: No objections.

Court: Admits Govt Exhibits #253A & #253B.

11:19 a.m. Ms. Jacks: Requests limiting instructions regarding statements related only to deft Baca.

Court: Limiting instructions – testimony from Mr. Rubio can only be used in consideration of deft Baca.

11:25 a.m. Mr. Lowry: Objection, hearsay and speculation.

Court: Tie it together.

11:31 a.m. Jury removed from courtroom.

Court: Discussion on witness testimony. Witness removed from courtroom.

11:34 a.m. Court in recess

11:46 a.m. Court in session

Ms. Jacks: Addresses the Court re: Fifth and Sixth Amendments

11:50 a.m. Jury enters courtroom

Mr. Beck: Continues direct examination of Mr. Rubio.

11:53 a.m. Mr. Beck: Passes the witness.

Mr. Maynard: Cross examination of Mr. Rubio on behalf of deft Herrera.

12:07 p.m. Mr. Maynard: Pass the witness.

Mr. Jewkes: Cross examination of Mr. Rubio on behalf of deft Sanchez.

12:21 p.m. Mr. Maynard: Objection, unclear if on personal knowledge.

Mr. Jewkes: Will clarify.

12:27 p.m. Mr. Lowry: Objection, hearsay.

Mr. Jewkes: None responsive answer to question.

Court: Answer stricken. Jury will disregard the answer.

12:30 p.m. Mr. Jewkes: Passes the witness.

Mr. Lowry: Cross examination of Mr. Rubio on behalf of deft Baca.

12:38 p.m. Court: Calls and conducts bench conference.

Mr. Lowry: Moves to admit Defendant's Exhibit AM1

Mr. Beck: Objects, for reasons stated.

Court: Over-ruled. Admits Defendant's Exhibit AM1.

12:42 p.m. Mr. Lowry: Passes the witness.

Ms. Fox-Young: Cross examination of Mr. Rubio on behalf of deft Perez.

12:43 p.m. Ms. Fox-Young: Passes the witness.

Mr. Beck: No questions.

Court: Witness may step down. Subject to recall. Witness may be transported to facility.

12:44 p.m. Mr. Castellano: William Price called to testify.

Clerk: Swears in William Price (Correctional Officer, SNM Correctional Facility)

Mr. Castellano: Direct examination of Mr. Price.

1:02 p.m. Mr. Castellano: Passes the witness.

Mr. Villa: Cross examination of Mr. Price on behalf of deft Perez.

1:13 p.m. Mr. Villa: Passes the witness.

Mr. Maynard: Cross examination of Mr. Price on behalf of deft Herrera.

1:16 p.m. Court: Jury removed from courtroom.

Court: Planning purposes for afternoon, inclined to allow Baca statement.

1:19 p.m. Court in recess

2:13 p.m. Court in session

Ms. Fox-Young: Provides documentation to the Court re: interview dated 08/22/2017.

2:16 p.m. Jury enters courtroom.

Mr. Maynard: No further questions.

Ms. Jacks: Cross examination of Mr. Price on behalf of deft Sanchez. Moves to admit Defendant Exhibit EM.

Govt & Defense: No objection.

Court: Admits Defendant Exhibit EM.

2:25 p.m. Ms. Jacks: Moves to admit Defendant Exhibits S4, S5 & S6.

Mr. Castellano: Requests to voir dire Mr. Price re: Exhibits S4, S5 & S6. Objects to Defendants Exhibit S5.

Court: Admits Defendants Exhibits S4 & S6

2:46 p.m. Court: Calls and conducts bench conference.

2:49 p.m. Ms. Jacks: Moves to admit Defendant Exhibits E1 – E18.

Govt & Defense: No objection.

Court: Admits Defendant Exhibits E1 – E18.

3:06 p.m. Ms. Jacks: Passes the witness.

Ms. Duncan: No questions for Mr. Price on behalf of deft Baca.

Mr. Castellano: Re-direct of Mr. Price.

3:17 p.m. Mr. Castellano: Pass the witness.

Ms. Jacks: Re-cross examination of Mr. Price on behalf of deft Sanchez.

3:19 p.m. Ms Jacks: Pass the witness.

Mr. Maynard: Re-cross examination of Mr. Price on behalf of deft Herrera.

3:19 p.m. Court: Witness may step down. Witness may leave the building, but is subject for recall.

3:19 p.m. Mr. Beck: Calls David Calbert to testify.

3:20 p.m. Court: Calls and conducts bench conference.

3:42 p.m. Mr. Beck: Calls David Calbert to testify.

Clerk: Swears in David Calbert.

Mr. Beck: Direct examination of Mr. Calbert.

3:46 p.m. Court in recess

4:03 p.m. Court in session

Court: Inquires inadmissible hearsay testimony outside the jury presence.

4:05 p.m. Mr. Beck: Questions Mr. Calbert outside the presence of the jury.

Ms. Duncan: Cross examination of Mr. Calbert on behalf of deft Baca, outside the presence of the jury.

Ms. Fox-Young: Voir dire of Mr. Calbert, outside the presence of the jury.

Court: Established by a preponderance of the evidence that Joe Martinez is part of the conspiracy, will allow the statements.

4:17 p.m. Jury returns to the courtroom.

Mr. Beck: Continue direct examination of Mr. Calbert.

4:34 p.m. Mr. Beck: Moves to admit Govt Exhibits #692 & #693.

Defense: No objection

Court: Admits Govt Exhibits #692 & #693.

4:46 p.m. Ms. Duncan: Requests limiting instruction

Court: Limiting instruction – testimony of statements from Deft Perez to Mr. Calbert may only be considered as evidence against Deft Perez.

4:50 p.m. Mr. Beck: Pass the witness.

Ms. Duncan: Cross examination of Mr. Calbert on behalf of Deft Baca.

4:58 p.m. Ms. Duncan: Moves to admit Defendants Exhibit PS.

Govt & Defense: No objection

Court: Admits Defendants Exhibit PS.

5:06 p.m. Ms. Duncan: Pass the witness

Ms. Fox-Young: Cross examination of Mr. Calbert on behalf of Deft Perez.

5:09 p.m. Ms. Fox-Young: Moves to admit Defendants Exhibit EN.

Govt & Defense: No objection

Court: Admits Defendants Exhibit EN.

5:32 p.m. Court: Gives cautionary instructions to jury.

Mr. Lowry: Joins in the objection by Ms. Jacks re: 5th & 6th Amendments.

5:35 p.m. Court in recess until Monday, 02/05/2018 at 8:30 a.m.